APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,145	01/12/2001	Bill J. Bonnstetter	P04361US1	2367

22885   7590   12/09/2004

MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

EXAMINER
MOORTHY, ARAVIND K

ART UNIT	PAPER NUMBER
2131	

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/760,145	BONNSTETTER ET AL.
	Examiner	Art Unit
	Aravind K Moorthy	2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>28 October 2004</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-39* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-39* is/are rejected.

7)☒ Claim(s) *3 and 35* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 May 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-39 are pending in the application.

2. Claims 1-39 have been rejected.

3. Claims 3 and 35 have been objected to.

Claim Objections

4.   Claims 3 and 35 are objected to because of the following informalities: grammatical errors.

As to claim 3, the word "is" was left out of the claim after "wide area network".

As to claim 35, the word "to" should be "for" in step (d) after the word "respondent".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 11 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 recites the limitation "each hierarchy level" in the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "the hierarchy levels" in the claim. There is insufficient antecedent basis for this limitation in the claim.

For the sake of examining, the examiner assumes that claim 11 depends upon claim 10 and claim 12 depends upon claim 11.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-3, 5-18, 22, 25-30 and 34-38 are rejected under 35 U.S.C. 103(a) as being

unpatentable over D'Alessandro U.S. Patent No. 6,556,974 B1 in view of Phillips et

al U.S. Patent No. 6,775,781 B1.

As to claim 1, D'Alessandro discloses a method of evaluation or assessment of

persons, jobs, or employees comprising:

(a) assigning a password for a respondent [column 6, lines 3-21];

(c) providing an assessment instrument respondent after

verification of password [column 6, lines 26-44];

(d) receiving responses from the respondent the assessment

instrument [column 7, lines 19-59];

(e) processing the responses into an assessment report [column 8,

lines 39-51];

(f) sending the assessment report to one more locations authorized

by the set permissions associated with the password [column 8 line 52 to

column 9 line 6].

D'Alessandro does not teach (b) initializing a set of permissions relative to the

password.

Phillips et al teaches initializing a set of permissions relative to a password [column 6, lines 14-32].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified D'Alessandro so that the assigned password would have had a set of permissions relative to the password.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified D'Alessandro by the teaching of Phillips et al because it prevents a user from tampering with system functionality in a way that might impair the functionality of the device or even render it inoperable [column 3, lines 39-48].

As to claim 2, D'Alessandro teaches managing distribution of documents including assessment instruments, over a wide area network [column 5, lines 44-59].

As to claim 3, D'Alessandro teaches that the wide area network is in a global computer network [column 10, lines 56-59].

As to claim 5, Phillips et al teaches that the permissions include what can be accessed, opened, changed [column 3, lines 22-46] .

As to claim 6, D'Alessandro teaches that the assessment instrument a survey related human performance [column 5, lines 44-59].

As to claim 7, D'Alessandro teaches that human performance relates to job performance [column 5, lines 44-59].

As to claim 8, D'Alessandro teaches that human performance relates to personal performance [column 5, lines 44-59].

As to claim 9, D'Alessandro teaches assigning a password for one or more other entities [column 6, lines 3-21].

As to claim 10, Phillips et al teaches that the entities are categorized in a hierarchy of different hierarchy levels [column 8, lines 7-37].

As to claim 11, Phillips et al teaches that each hierarchy level has a set of permissions [column 8, lines 7-37].

As to claim 12, Phillips et al teaches that the hierarchy levels range from a higher to a lower hierarchy level, and no set of permissions of a lower hierarchy level is broader than any higher hierarchy level [column 8, lines 7-37].

As to claim 13, D'Alessandro teaches that there can be simultaneous access by a plurality of authorized entities [column 5, lines 23-43].

As to claim 14, D'Alessandro teaches a web site [column 6, lines 3-21].

As to claim 15, D'Alessandro teaches that the web site contains an administration site and a survey site [column 6, lines 3-21].

As to claim 16, D'Alessandro teaches that a plurality of entities can have simultaneous access [column 5, lines 23-43].

As to claim 17, D'Alessandro teaches that the password comprises identifying information and a secured access code [column 6, lines 3-21].

As to claims 18 and 30, D'Alessandro teaches that the entities are selected from the set comprising a master distributor, a distributor, a client and a respondent [column 6, lines 6-22].

As to claims 22 and 34, D'Alessandro teaches that the set of permissions associated with a respondent include (a) respond to an assigned assessment instrument.

As to claim 25, D'Alessandro teaches that the variety of reporting options include (a) an activity report of who responded to assessment instruments, (b) automatic electronic delivery of a report to one more addresses, (c) sorting capabilities, (d) summarizations.

As to claim 26, D'Alessandro teaches changing options for the permissions via the wide area network.

As to claim 27, Phillips et al teaches that more permissions than are assigned an entity cannot be passed on to another entity [column 8, lines 47-63].

As to claim 28, D'Alessandro discloses a method for managing distribution of assessment documents over a wide area comprising:

(a) providing an assessment instrument for completion by respondents;

(b) assigning a password for an entity having a level of rights;

(d) allowing the entity access web site on a global computer network and enabling the initialized permissions for the entity;

(e) providing an assessment instrument to the respondent;

(f) receiving responses from the respondent to the assessment instrument;

(g) processing the responses into an assessment report;

(h) sending the assessment report to one or more locations authorized by the permissions.

D'Alessandro does not teach (c) initializing permissions relative to the password based on the level rights for the entity, the permissions including at least one respondent password having permissions based on the level of rights for a respondent.

Phillips et al teaches initializing permissions relative to the password based on the level rights for the entity, the permissions including at least one respondent password having permissions based on the level of rights for a respondent [column 6, lines 14-32].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified D'Alessandro so that a set of permissions relative to the password would have been initialized based on the level rights for the entity, the permissions would have included at least one respondent password having permissions based on the level of rights for a respondent.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified D'Alessandro by the teaching of Phillips et al because it prevents a user from tampering with system functionality in a way that might impair the functionality of the device or even render it inoperable [column 3, lines 39-48].

As to claim 29, Phillips et al teaches that the set of permissions for a given level of rights can not be exceeded by a password associated with a lesser level rights [column 6, lines 14-32].

As to claim 35, D'Alessandro discloses a system for managing assessments comprising:

(a) a plurality of terminals each adapted to access a wide area network, as discussed above;

(b) a central server [column 5, lines 44-59];

(c) software associated with the central server which administers a web site and which provides permissions [column 6, lines 3-21];

D'Alessandro does not teach a password having a set of permissions correlated to a respondent for an assessment survey. D'Alessandro does not teach a password having a set of permissions correlated an entity interested in the respondent's responses to the assessment survey.

Phillips et al teaches a password having a set of permissions correlated to a respondent, as discussed above. Phillips et al teaches having an administrative password.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified D'Alessandro so that there would have been a password having a set of permission correlated to a respondent for the assessment survey. The party interested in the responses of the assessment survey would have had a password having a set of permission correlated to the password.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified D'Alessandro by the teaching of Phillips et al because it prevents a user from tampering with system functionality in a way that might impair the functionality of the device or even render it inoperable [column 3, lines 39-48].

As to claim 36, D'Alessandro teaches that the assessment relates to job or personal performance of a human, as discussed above.

As to claims 37 and 38, D'Alessandro teaches that the assessment survey is electronic nature or is hard copy nature [column 7, lines 19-59].

7.   **Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over D'Alessandro U.S. Patent No. 6,556,974 B1 and Phillips et al U.S. Patent No. 6,775,781 B1 as applied to claim 1 above, and further in view of Nagai U.S. Patent No. 6,490,687 B1.**

As to claim 4, the D'Alessandro-Phillips combination teaches passwords, as discussed above.

The D'Alessandro-Phillips combination does not teach that the password is useable one time and then invalidated.

Nagai teaches passwords that are useable one time and then invalidated.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the D'Alessandro-Phillips combination so that the assigned passwords were usable one time and then invalidated.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the D'Alessandro-Phillips combination by the teaching of Nagai because it minimizes the risk that a password will be compromised, the number of login attempts that may be attempted are often limited, so that an attacker cannot keep trying different passwords until successful [column 1, lines 34-41].

8.   **Claims 19 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Alessandro U.S. Patent No. 6,556,974 B1 and Phillips et al U.S. Patent No. 6,775,781 B1 as applied to claims 1 and 28 above, and further in view of Kane et al U.S. Patent No. 6,141,778.**

As to claim 19, the D'Alessandro-Phillips combination teaches (c) ability to manage reports [column 8, lines 39-51].

The D'Alessandro-Phillips combination does not teach that the set of permissions associated with a master distributor password include (a) ability to create response links and passwords, (b) ability to set up new accounts, (d) ability to change its own and others' account options.

Kane et al teaches the ability to create passwords [column 5 line 64 to column 6 line 16]. Kane et al teaches the ability to set up new accounts [column 5 line 64 to column 6 line 16]. Kane et al teaches the ability to change its own and others' account options [column 7, lines 55-62].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the D'Alessandro-Phillips combination so that the master distributor's password would have included the ability to create passwords, set up new accounts, manage reports and the ability to change its own and others' account options.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the D'Alessandro-Phillips combination by the teaching of Kane et al because it decentralizes control and permits for rapid updates [column 7, lines 55-62].

9. Claims 20 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Alessandro U.S. Patent No. 6,556,974 B1 and Phillips et al U.S. Patent No. 6,775,781 B1 as applied to claims 1 and 28 above, and further in view of Kane et al U.S. Patent No. 6,141,778.

As to claim 20, the D'Alessandro-Phillips combination does not teach that the set of permissions associated with a distributor password include (a) ability to create

response links and passwords, (b) ability to set up new accounts, (d) ability to change its own account options.

Kane et al teaches the ability to create passwords [column 5 line 64 to column 6 line 16]. Kane et al teaches the ability to set up new accounts [column 5 line 64 to column 6 line 16]. Kane et al teaches the ability to change its own account options [column 7, lines 55-62].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the D'Alessandro-Phillips combination so that a distributor's password would have included the ability to create passwords, set up new accounts and the ability to change its own account options.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the D'Alessandro-Phillips combination by the teaching of Kane et al because it decentralizes control and permits for rapid updates [column 7, lines 55-62].

10. Claims 21 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Alessandro U.S. Patent No. 6,556,974 B1 and Phillips et al U.S. Patent No. 6,775,781 B1 as applied to claims 1 and 28 above, and further in view of Kane et al U.S. Patent No. 6,141,778.

As to claim 21, the D'Alessandro-Phillips combination does not teach that the set of permissions associated with a client include (a) ability to create response links and passwords, (b) ability to manage reports, (c) ability change account options.

Kane et al teaches the ability to create passwords [column 5 line 64 to column 6 line 16]. Kane et al teaches the ability to set up new accounts [column 5 line 64 to

column 6 line 16]. Kane et al teaches the ability to change its own account options [column 7, lines 55-62].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the D'Alessandro-Phillips combination so that a client's password would have included the ability to create passwords, set up new accounts and the ability to change its own account options.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the D'Alessandro-Phillips combination by the teaching of Kane et al because it decentralizes control and permits for rapid updates [column 7, lines 55-62].

11. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Alessandro U.S. Patent No. 6,556,974 B1 and Phillips et al U.S. Patent No. 6,775,781 B1 as applied to claim 1 above, and further in view of Cohen-Levy et al U.S. Patent No. 5,423,034.

As to claims 23, the D'Alessandro-Phillips combination does not teach that the step of sending the reports includes a variety of reporting options. The D'Alessandro-Phillips combination does not teach that the variety of options includes (a) to whom the report will be sent, (b) when they will be sent, (c) what will be in the report, (d) what form it will be sent.

Cohen-Levy et al teaches a step of sending documents that includes a variety of sending options. Cohen-Levy et al teaches that the variety of options includes (a) to whom the document will be sent, (b) when they will be sent, (c) what will be in the document, (d) what form it will be sent.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the D'Alessandro-Phillips combination so that there would have been a variety of reporting options. The options would have included (a) to whom the report will be sent [column 15, lines 55-66], (b) when they will be sent [column 19, lines 50-56], (c) what will be in the report [column 20, lines 40-57], (d) what form it will be sent [column 20, lines 8-25].

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the D'Alessandro-Phillips combination by the teaching of Cohen-Levy et al because it ensures that the appropriate receiver obtains the copy of the report. It ensures that the report will be sent when it has been completed and it gives the user the option of sending it in hard copy or electronic form [column 13, lines 3-61]

12.   **Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over D'Alessandro U.S. Patent No. 6,556,974 B1 and Phillips et al U.S. Patent No. 6,775,781 B1 as applied to claim 28 above, and further in view of Pisello et al U.S. Patent No. 5,678,042.**

As to claim 39, the D'Alessandro-Phillips combination does not teach that the set of permissions can vary from password to password.

Pisello et al teaches that a set of permissions can vary from password to password [column 19, lines 12-17].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the D'Alessandro-Phillips combination so that the set of permissions would have varied from password to password.

It would have been obvious to a person having ordinary skill in the art at the time

the invention was made to have modified the D'Alessandro-Phillips combination by the

teaching of Pisello et al because it helps restrict users without having the administrator

being concerned with each individual user [column 19, lines 3-11].

Conclusion

13.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Aravind K Moorthy whose telephone number is 571-272-

3793. The examiner can normally be reached on Monday-Friday, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ayaz R Sheikh can be reached on 571-272-3795. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system.   Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free).

Aravind K Moorthy
December 6, 2004